

**AMENDMENT TO THE
DECLARATION OF RESTRICTIONS FOR PERSIMMON POINTE**

THIS AMENDMENT is made this 28 day of January, 2011, by Olathe-Persimmon, L.L.C., as successor to Heritage Development of Kansas, Inc., a Kansas corporation (hereinafter referred to as "Developer").

WITNESSETH:

WHEREAS on June 4, 2005, Developer filed that certain Declaration of Restrictions for Persimmon Pointe that subdivision described in Exhibit "A", recorded in Book 9058, Page 975 et. seq., of the Register of Deeds of Johnson County, Kansas ("Declaration"); and

WHEREAS, pursuant to the Declaration, the Developer may make modifications to the Declaration as long as the Developer owns lots in the subdivision; and

WHEREAS, Olathe-Persimmon, L.L.C., as successor Developer, desires to modify Section 2 to clarify fencing restrictions and to establish restrictions for placement of garbage containers.

NOW, THEREFORE, pursuant to the powers retained by Developer under the Declaration, the successor Developer hereby amends the Declaration as follows:

1.

Section 2, Paragraph F of the Declaration is amended by striking it in its entirety and substituting the following therefor:

No fence, wall or deck shall be constructed, maintained or altered upon any Lot unless the location, design, configuration, height, color and materials are prior approved in writing by the Architectural Control Committee. No animal pens or runs shall be permitted. No fence, wall or privacy screen shall be constructed or maintained on any Lot closer to the street than the rear corner of the house or nearer to a side street than fifteen feet (15') from the side property line unless otherwise specifically approved in writing. Any fence installed next to an existing fence on an adjacent Lot must be joined to such existing fence.

Perimeter fences shall be black wrought iron, black powder-coated steel, or cedar in the style shown on the attached Exhibit A-1. Cedar may be untreated and allowed to

weather or may be treated with protective sealer in "Natural Cedar Tone" color, or equivalent. All fences must be stair-stepped to follow the grade of the Lot. Fences shall not exceed 48 inches in height unless specifically approved for a greater height by the Architectural Control Committee. All exterior decks shall be constructed of cedar wood. However ground supports may be of treated wood. No animal pens or runs shall be permitted.

2.

Section 2 of the Declaration is amended by adding the following:

EE. Garbage cans must be kept in the garage. They are not to be placed at the curb until dusk the day prior to pick up and returned to garage no later than dusk the day of pick up.

IN WITNESS WHEREOF, the undersigned successor Developer has executed this Amendment on the date and year first written above.

OLATHE-PERSIMMON, L.L.C.
A Kansas Limited Liability Corporation

By: Clay Blair
CLAY BLAIR
(Printed Name)
Member
Title

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on this 28 day of January, 2011 by Clay Blair, as member of Olathe-Persimmon, L.L.C. on behalf of said limited liability corporation and executed to be the act and deed of said limited liability corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Chrisanne M. Golding
Signature of notary public

My appointment expires: 8/27/2014



EXHIBIT A

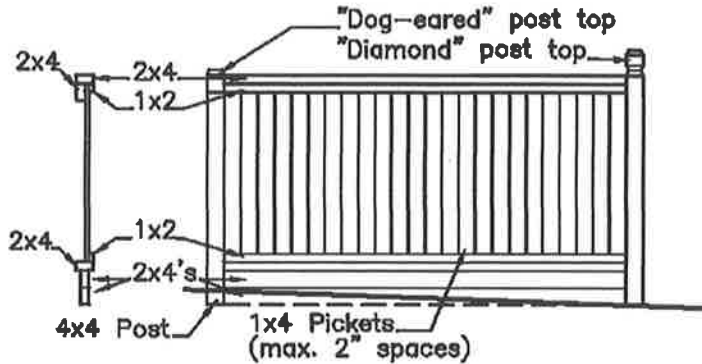
Lots 1 through 62, inclusive, and Tracts A and B, PERSIMMON POINTE,
1ST PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

Lots 63 through 113, inclusive, PERSIMMON POINTE,
SECOND PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

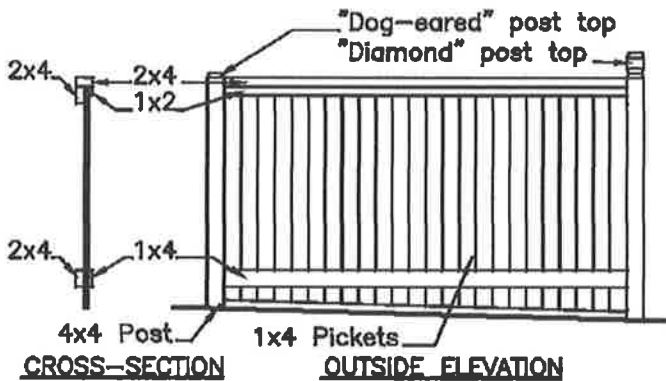
Lots 114 through 190, inclusive, PERSIMMON POINTE,
THIRD PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

Lots 183 through 189, inclusive, and Tract D, PERSIMMON POINTE,
FOURTH PLAT, A subdivision in the City of Olathe, Johnson County, Kansas

EXHIBIT A-1
DECLARATION OF PERSIMMON POINTE
APPROVED FENCE STYLES
 (See Amendment to Declaration of Persimmon Pointe for additional information.)



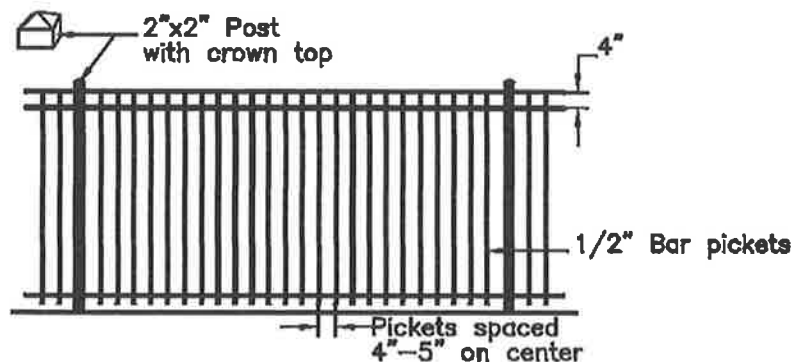
CROSS-SECTION OUTSIDE ELEVATION
Standard Picture Frame



Specifications:

- Top and bottom rails to be horizontal.
- Bottom of pickets sloped to match grade.
- Fence sections step down to follow grade.
- Cedar may be untreated and allowed to weather or may be treated with protective sealer in "Natural Cedar Tone" color (or equivalent).

CROSS-SECTION OUTSIDE ELEVATION
Modified Picture Frame



Black Metal
(Wrought Iron or Powder-Coated Steel)